

pool heaters to proceed to a final rule and will use the data and useful information contained in the comments in developing that rulemaking. However, based on the Department's review of the comments on the proposed standards for fluorescent lamp ballasts, television sets and electric water heaters, the Department has concluded that a number of significant issues exist which require additional data and/or analysis to address. The Department believes that because of the resulting changes to the data and analyses underlying the proposed standards for these products, it would be appropriate to publish revised notices of proposed rulemaking. If the results of the analysis do not support a change in the standards, then the Department will propose that the levels in the Act remain unchanged or, regarding television sets, the Department may propose that standards are not justified.

(a) Fluorescent lamp ballasts. Based on the comments in the record, the Department has determined that revised data from a larger sample of fluorescent lamp ballast types is needed. Data from sources identified in the record, data from manufacturers, and data from other independent sources will be used in the reanalysis.

(b) Televisions. Based on the comments in the record, the Department has determined that new data from television sets with current features and from a larger sample of television manufacturers is needed. The Department is planning to test television sets to develop such data. These new data, together with data and other information obtained from the comments submitted on the proposed standard, will be used to reanalyze whether efficiency standards are warranted for television sets and, if so, at what level.

(c) Electric water heaters. The Department received comments on a wide range of issues regarding the proposed standard for electric water heaters, including the Department's estimates of average household hot water use, the costs of heat pump water heaters and the extent to which the proposed standard would result in fuel switching. In addition, the comments addressed the impacts of standards on consumers, including low income households, households with small electric water heaters installed in confined spaces, and those with large water heaters which take advantage of reduced off-peak electric utility rates. The Department agrees that these issues need to be reassessed. DOE will gather additional data on the costs and other

impacts of the standards and will explore options for reducing or eliminating possible adverse impacts, including the possible establishment of distinct classes of electric water heaters. Because fully addressing these issues may require substantial changes in the analysis of the impacts of water heater standards, the Department will issue a new proposed rule.

Issued in Washington, D.C., January 25, 1995.

**Christine A. Ervin,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. 95-2348 Filed 1-30-95; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[W143-01-6261b; FRL-5139-2]

#### Clean Air Act Approval and Promulgation of Employee Commute Options Program; Wisconsin

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The United States Environmental Protection Agency (EPA) is proposing to approve the State Implementation Plan (SIP) revision request submitted by the State of Wisconsin on November 15, 1993 for the purpose of establishing an Employee Commute Options Program (ECO Program) in the Milwaukee Severe-17, ozone nonattainment area. Wisconsin submitted the SIP revision to satisfy the statutory mandate that an ECO Program be established for employers in severe and extreme ozone nonattainment areas with 100 or more employees.

Compliance plans developed by these employers must be designed to convincingly demonstrate an increase in the average passenger occupancy of vehicles used by their employees who commute to work during the peak period by no less than 25 percent above the average vehicle occupancy of the nonattainment area. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision request without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to its proposed rule, no further activity is contemplated. If EPA receives adverse comments, the

direct final rule will be withdrawn and the public comments received will be addressed in a subsequent final rule based on this proposed rule. A second comment period on this action will not be initiated. Parties interested in commenting on this document should do so at this time.

**DATES:** Comments on this proposed rule must be received on or before March 2, 1995.

**ADDRESSES:** Written comments should be mailed to: Carlton Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's analysis of it are available for inspection at: Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John M. Mooney, (312) 886-6043.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the rules section of this **Federal Register**.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen oxide, Ozone, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: December 19, 1994.

**David A. Ullrich,**

*Acting Regional Administrator.*

[FR Doc. 95-2285 Filed 1-30-95; 8:45 am]

BILLING CODE 6560-50-F

### 40 CFR Part 52

[KY-80-6666; FRL-5147-6]

#### Control Strategy: Ozone (O<sub>3</sub>); Kentucky

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve a request for an exemption from the oxides of nitrogen (NO<sub>x</sub>) reasonably available control technology (RACT) requirement of the Clean Air Act as amended in 1990 (CAA) for the Kentucky portion of the Huntington-Ashland, moderate ozone O<sub>3</sub> nonattainment area. The exemption request, submitted by the Commonwealth of Kentucky through

the Department of Environmental Protection, is based upon the most recent three years of ambient air monitoring data, which demonstrate that additional reductions of NO<sub>x</sub> would not contribute to the attainment of the National Ambient Air Quality Standard (NAAQS) for O<sub>3</sub> in the area. The CAA requires states with designated nonattainment areas of the NAAQS for O<sub>3</sub>, and classified as moderate nonattainment and above, to adopt RACT rules for major stationary sources of NO<sub>x</sub>. The CAA provides further that the NO<sub>x</sub> requirements do not apply to these areas outside an O<sub>3</sub> transport region if EPA determines that additional reductions of NO<sub>x</sub> would not contribute to attainment of the NAAQS for O<sub>3</sub> in the area.

**DATES:** To be considered comments must be received by March 2, 1995.

**ADDRESSES:** Written comments should be addressed to: Kimberly Bingham, Stationary Source Planning Unit, Regulatory Planning and Development Section, Air Programs Branch; Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, Georgia 30365.

A copy of the exemption request is available for inspection at the following location (it is recommended that you contact Kimberly Bingham at (404) 347-3555 extension 4195 before visiting the Region 4 office):

United States Environmental Protection Agency; Air, Pesticides, and Toxics Management Division, Air Programs Branch, Regulatory Planning and Development Section, Stationary Source Planning Unit, 345 Courtland Street NE., Atlanta, Georgia 30365.

Department for Environmental Protection Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Bingham, Stationary Sources Planning Unit, Regulatory Planning and Development Section; Air Programs Branch, Air Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

**SUPPLEMENTARY INFORMATION:**

The air quality planning requirements for the reduction of NO<sub>x</sub> emissions are set out in section 182(f) of the CAA. Section 182(f) of the CAA requires states with areas designated nonattainment for O<sub>3</sub> and classified as moderate and above to impose the same control requirements for major stationary sources of NO<sub>x</sub> as apply to major

stationary sources of volatile organic compounds (VOCs). Section 182(f) provides further that these NO<sub>x</sub> requirements do not apply to areas outside an O<sub>3</sub> transport region if EPA determines that additional reductions of NO<sub>x</sub> would not contribute to attainment in such areas. In an area that did not implement the section 182(f) NO<sub>x</sub> requirements, but did attain the O<sub>3</sub> standard as demonstrated by ambient air monitoring data (consistent with 40 CFR part 58 and recorded in the EPA's—Aerometric Information Retrieval system (AIRS)), it is clear that the additional NO<sub>x</sub> reductions required by section 182(f) would not contribute to attainment of the NAAQS.

The criteria established for the evaluation of an exemption request from the section 182(f) requirements are set forth in an EPA memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, dated May 27, 1994, entitled "Section 182(f) Nitrogen Oxides (NO<sub>x</sub>) Exemptions—Revised Process and Criteria," and an EPA guidance document entitled "Guidelines for Determining the Applicability of Nitrogen Oxides Requirements Under Section 182(f)," dated December 1993, from EPA, Office of Air Quality Planning and Standards, Air Quality Management Division.

On November 12, 1993, the Commonwealth of Kentucky submitted to EPA Region 4 a request to redesignate the Kentucky portion of the Huntington-Ashland moderate O<sub>3</sub> nonattainment area to attainment. The redesignation request is currently under review and will be addressed in a separate rulemaking. On August 16, 1994, the Commonwealth requested that the Kentucky portion of the Huntington-Ashland area be exempt from the NO<sub>x</sub> RACT requirement in section 182(f) of the CAA. The section 182(f) exemption also relieves the area of all NO<sub>x</sub> requirements of the CAA such as New Source Review, Conformity, and Inspection/ Maintenance. The exemption request is based upon ambient air monitoring data from 1991, 1992, and 1993, which demonstrate that the NAAQS for O<sub>3</sub> has been attained in the area without additional reductions of NO<sub>x</sub> (a violation of the ozone NAAQS occurs when the average exceedance for any O<sub>3</sub> monitoring site in a three year period is greater than 1.0).

Only one O<sub>3</sub> exceedance was recorded in the Huntington-Ashland area for the period from 1991 to 1993: Monitor 21-019-0015-0.129 ppm (1993). Thus, there has been no violation of the NAAQS in the area during this period and the area has maintained the standard through 1994.

EPA has reviewed the ambient air monitoring data for O<sub>3</sub> (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) submitted by the Commonwealth of Kentucky in support of the exemption request and has determined that a violation of the O<sub>3</sub> NAAQS has not occurred in the Huntington-Ashland, Kentucky portion area for the relevant three year period. Because the Kentucky portion of the Huntington-Ashland area is meeting the O<sub>3</sub> NAAQS, this exemption request for the area meets the applicable requirements contained in the EPA policy and guidance documents referenced above.

Continuation of the section 182(f) exemption granted herein is contingent upon continued monitoring and continued maintenance of the O<sub>3</sub> NAAQS for the entire Huntington-Ashland area. If a violation of the O<sub>3</sub> NAAQS is monitored in the Kentucky portion of the Huntington-Ashland area, EPA will provide notice in the **Federal Register**. A determination that the NO<sub>x</sub> exemption no longer applies would mean that the NO<sub>x</sub> RACT provision (see 58 FR 63214 and 58 FR 62188) would immediately be applicable to the affected area. Although the NO<sub>x</sub> RACT requirements would be applicable, some reasonable period of notice is necessary to provide major stationary sources subject to the RACT requirements time to purchase, install, and operate any required controls. Accordingly, the Commonwealth may provide sources a reasonable time period to meet the RACT emission limits after the EPA determination that NO<sub>x</sub> RACT requirements are necessary. EPA expects the time period to be as expeditious as practicable, but in no case longer than 24 months.

**Proposed Action**

EPA is proposing approval of Kentucky's request to exempt the Kentucky portion of the Huntington-Ashland area moderate O<sub>3</sub> nonattainment area from the section 182(f) NO<sub>x</sub> RACT requirement. This proposed approval is based upon the evidence provided by Kentucky and the Commonwealth's compliance with the requirements outlined in the applicable EPA guidance. If a violation of the O<sub>3</sub> NAAQS occurs in the Kentucky portion of the Huntington-Ashland area, the exemption from the NO<sub>x</sub> RACT requirement of section 182(f) of the CAA in the applicable area shall no longer apply.

This action is not a SIP revision and is not subject to the requirements of section 110 of the CAA. The authority to approve or disapprove exemptions

from NO<sub>x</sub> requirements under section 182 of the CAA was delegated to the Regional Administrator from the Administrator in a memo dated July 6, 1994, from Jonathan Cannon, Assistant Administrator, to the Administrator, titled, "Proposed Delegation of Authority: Exemptions from Nitrogen Oxide Requirements Under Clean Air Act Section 182(f) and Related Provisions of the Transportation and General Conformity Rules"—Decision Memorandum."

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. This rule approves an exemption from a CAA requirement. Therefore, I certify that it does not have a significant impact on any small entities affected.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 12, 1995.

**Joe R. Franzmathes,**

*Acting Regional Administrator.*

[FR Doc. 95-2351 Filed 1-30-95; 8:45 am]

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#### 40 CFR Part 70

[AD-FRL-5147-7]

#### Clean Air Act Proposed Approval of Operating Permits Program; Lincoln-Lancaster County Health Department; State of Nebraska

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes approval of the Operating Permits Program submitted by the Lincoln-Lancaster County Health Department (LLCHD) (Nebraska) for the purpose of complying with Federal requirements which mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

**DATES:** Comments on this proposed action must be received in writing by March 2, 1995.

**ADDRESSES:** Comments should be addressed to Christopher D. Hess at the Region VII address.

Copies of the LLCHD submittal and other supporting information used in developing the proposed rule are available for inspection during normal business hours by contacting: Christopher D. Hess, USEPA, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Christopher D. Hess (913) 551-7213.

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Purpose

###### A. Introduction

As required under title V of the Clean Air Act ("the Act") as amended (1990), EPA has promulgated rules which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires states to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that states develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act which outlines criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993, date, or by the end of an interim program, it must establish and implement a Federal program.

##### II. Proposed Action and Implications

###### A. Analysis of Submission by Local Authority

###### 1. Introduction

What follows are brief explanations indicating how the submittal meets the requirements of part 70. The reader may consult the Technical Support Document (TSD) for a more detailed explanation of these topics.

###### 2. Support Materials

*a. Governor's letter.* The designated representative of the Governor of Nebraska has requested approval on behalf of the LLCHD as a local permitting agency. LLCHD has also requested approval in its submittal cover letter. Lincoln-Lancaster proposes to administer title V in its two counties.

*b. Regulations.* The basic regulatory framework for the operating permit program is the "1993 Lincoln-Lancaster County Air Pollution Control Program," version 1.2, as amended May 1994. These rules essentially adopt the state's "Title 129—Nebraska Air Quality Regulations," which includes the title V requirements for the state. LLCHD rules use a different numbering system than the state's but is essentially the same in content. These rules were approved by the Lincoln City Council and by the Lancaster County Board of Supervisors. LLCHD has also incorporated by reference the Nebraska Environmental Protection Act and Nebraska statutes into its program. The submittal includes a discussion of the public review and hearing process which the local agency followed in adopting the rules.

The submittal currently contains two provisions which would restrict operation of the program. However, LLCHD has agreed to make modifications to both of these provisions in order to receive full approval of the program. The reader is directed to the applicability provisions section of this notice (II.A.2.e.) for discussion of the first item (applicable requirements definition), and (II.A.2.h.) for the second item (Title I modifications).

*c. Attorney General's legal opinion.* The opinion of the County Attorney contains the elements required by 40 CFR 70.4(b)(3) and states there is adequate authority to meet all of the title V and part 70 requirements.

###### 3. Implementation

*a. Program description.* A comprehensive plan for implementing the title V program was included in the submittal. This plan includes program authority, agency organization, and staffing. Approximately 80 sources have been identified that will be required to submit a title V permit application within LLCHD jurisdiction.

LLCHD has also identified adequate procedures for its permit application and review process, along with inspection and enforcement provisions. The EPA has determined the program description meets the requirements of 40 CFR 70.4(b)(1). An implementation agreement was not included in LLCHD's